

REED SMITH LLP
A limited liability partnership formed in the State of Delaware

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Attorneys for Defendant
FIA Card Services, N.A. (erroneously
sued as Bank of America Corporation)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JAMES DRESSER, an individual,
Plaintiff,

vs.

BANK OF AMERICA CORPORATION,
a Delaware Corporation; and DOES 1-50
inclusive,
Defendant(s).

No.: 08 CV 1550 DMS POR

[Removal from the Superior Court of the
State of California, County of San Diego,
Case No.37-2008-00077669-CU-MC-
CTL]

**DEFENDANT FIA CARD
SERVICES, N.A.'S CERTIFICATE
OF SERVICE OF NOTICE TO
ADVERSE PARTY AND STATE
COURT OF NOTICE OF REMOVAL
TO FEDERAL COURT AND
RELATED DOCUMENTS**

Hon. Dana M. Sabraw

Courtroom: 10

TO ALL PARTIES AND THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that, on August 22, 2008, defendant FIA Card
Services, N.A., ("FIA"), filed in the Superior Court of the State of California, County
of San Diego, a Notice to the Clerk of the Superior Court of San Diego County and to
Adverse Party of Removal of this civil action to Federal Court ("Notice"). Defendant
also served the Notice on Plaintiff James Dresser ("Plaintiff") on August 21, 2008. A
true and correct copy of the Notice—filed in San Diego County Superior Court Case

No. 37-2008-00077669-CU-MC-CTL and served on Plaintiff, along with the proof of service, is attached hereto as Exhibit 1.

FIA attached to the Notice a true and correct copy of the Notice of Removal filed by defendant in this Court on August 21, 2008.

PLEASE TAKE FURTHER NOTICE that, in connection with and as part of this Certification, FIA has served on Plaintiff the following documents:

1. Defendant FIA Card Services, N.A.'s Corporate Disclosure Statement
2. Defendant FIA Card Services, N.A.'s Notice Of Party With Financial Interest
3. Defendant FIA Card Services, N.A.'s Notice Of Removal Pursuant to 28 U.S.C. §§ 1331 And 1441(b)
4. Proof of Service
5. Defendant FIA Card Services, N.A.'s Notice To The Clerk Of The Superior Court Of San Diego County And To Adverse Party Of Removal Pursuant To 28 U.S.C. §§ 1331 and 1441(b)

DATED: August 25, 2008

REED SMITH LLP

By /s/ Felicia Y. Yu
Abraham J. Colman
Felicia Y. Yu
Veronica Kuiumdjian
Attorneys for Defendants
FIA Card Services, N.A.

PROOF OF SERVICE

I, Felicia Y. Yu, declare:

I am employed in the County of Los Angeles, State of California. My business address is Reed Smith LLP, 355 South Grand Avenue, Suite 2900, Los Angeles, California 90071. I am over the age of eighteen years and not a party to the action in which this service is made.

On August 25, 2008, I served the document(s) described as:

DEFENDANT FIA CARD SERVICES, N.A.'S CERTIFICATE OF SERVICE OF NOTICE TO ADVERSE PARTY AND STATE COURT OF NOTICE OF REMOVAL TO FEDERAL COURT AND RELATED DOCUMENTS

on the interested parties in this action by the methods listed below:

James Dresser
14972 Lyons Valley Road
Jamul, CA 91935

Plaintiff, In Propria Persona

T

- ☒ BY CM/ECF ELECTRONIC DELIVERY: In accordance with the registered case participants and in accordance with the procedures set forth at the United States District Court, Northern District of California, San Francisco Division's website www.ecf.cand.uscourts.gov.
- ☐ BY PERSONAL DELIVERY: I personally delivered the document(s) listed above to the person(s) at the address(es) set forth on the attached list.
- ☒ BY MAIL: I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at Reed Smith LLP, 355 South Grand Avenue, Suite 2900, Los Angeles, California 90071
- ☐ BY ☐ UPS NEXT DAY AIR ☐ FEDERAL EXPRESS ☐ OVERNIGHT DELIVERY: I deposited such envelope in a facility regularly maintained by ☐ UPS ☐ FEDERAL EXPRESS ☐ Overnight Delivery [specify name of service:] with delivery fees fully provided for or delivered the envelope to a courier or driver of ☐ UPS ☐ FEDERAL EXPRESS OVERNIGHT DELIVERY [specify name of service:] authorized to receive documents at Reed Smith LLP, 355 South Grand Avenue, Suite 2900, Los Angeles, California 90071 with delivery fees fully provided for.
- ☐ BY FACSIMILE: I telecopied a copy of said document(s) to the following addressee(s) at the following number(s): in accordance with the written confirmation of counsel in this action.

- 1 ☐ BY EMAIL: I sent via electronic mail a copy of said document(s) to the
2 following addressee(s):
3 ☐ [State] I declare under penalty of perjury under the laws of the State of
4 California that the above is true and correct.
5 ☒ [Federal] I declare under penalty of perjury that the foregoing is true and
6 correct.

7 Executed on August 25, 2008, at Los Angeles, California.

8 /s/ Felicia Y. Yu

9 Felicia Y. Yu

10 REED SMITH LLP
11 A limited liability partnership formed in the State of Delaware
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AUG-22-08 12:53PM FROM-FIRST LEGAL SUPPORT

T-382 P.02/02 F-393

AUG 22 '08 PM 12:21

1 Abraham J. Colman (SBN 146933)
 Felicia Y. Yu (SBN 193316)
 2 Veronica Kuiumdjian (SBN 244825)
 REED SMITH LLP
 3 355 South Grand Avenue, Suite 2900
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 4 Telephone: +1 213 457 8000
 Facsimile: +1 213 457 8080

5 Attorneys for Defendant
 6 FIA Card Services, N.A. (erroneously sued as
 Bank of America corporation)
 7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF SAN DIEGO
 10

11 JAMES DRESSER, an Individual,
 12 Plaintiff,

13 vs.

14 BANK OF AMERICA CORPORATION; and
 15 DOES 1-50, inclusive, ,
 16 Defendants.
 17

) No.: 37-2008-00077669-CU-MC-CTL

) DEFENDANT FIA CARD SERVICES
) N.A.'S NOTICE TO THE CLERK OF THE
) SUPERIOR COURT OF SAN DIEGO
) COUNTY AND TO ADVERSE PARTY OF
) REMOVAL PURSUANT TO 28 U.S.C. §§
) 1331 AND 1441(b)

Compl. Filed: February 8, 2008

Honorable Ronald S. Prager

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DOCSLA-15852872.1

DEFENDANT FIA CARD SERVICES, N.A.'S NOTICE TO THE CLERK OF THE SUPERIOR COURT OF SAN
 DIEGO COUNTY AND TO ADVERSE PARTY OF REMOVAL PURSUANT TO 28 U.S.C. §§ 1331 AND 1441(b)

1 **TO THE CLERK OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 2 **FOR THE COUNTY OF SAN DIEGO AND TO PLAINTIFF:**

3
 4 **PLEASE TAKE NOTICE** that Defendant FIA Card Services, N.A. ("FIA"), filed a Notice
 5 of Removal of this action in the United States District Court for the Southern District of California,
 6 pursuant to 28 U.S.C. §§ 1331 and 1441(b). A copy of the Notice of Removal is attached hereto.
 7 This Notice, together with the Notice of Removal, is hereby served on Plaintiff James Dresser, and
 8 filed in the Superior Court of the State of California for the County of San Diego. Pursuant to 28
 9 U.S.C. §§ 1331 and 1446(d), the state court "shall proceed no further unless and until the case is
 10 remanded."

11
 12 DATED: August 21, 2008.

13 REED SMITH LLP

14
 15 By

16 Abraham J. Colman
 17 Felicia Y. Yu
 18 Veronica Kuiumdjian
 19 Attorneys for Defendant
 20 FIA Card Services, N.A.
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EXHIBIT A

AUG-21-08 05:17PM FROM-FIRST LEGAL SUPPORT

T-368 P.03/06 F-379

COPY

REED SMITH LLP

A limited liability partnership formed in the State of Delaware

1 Abraham J. Colman (SBN 146933)
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 2 Felicia Y. Yu (SBN 193316)
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 3 Veronica Kuuumdjian (SBN 244825)
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 4 REED SMITH LLP
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 Telephone: 213.457.8000
 Facsimile: 213.457.8080

7 Attorneys for Defendant
 FIA Card Services, N.A. (erroneously
 8 sued as Bank of America Corporation)

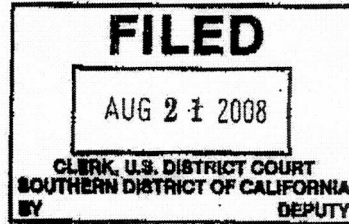
UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

11 JAMES DRESSER, an individual,
 12 Plaintiff,

13 vs.

14 BANK OF AMERICA CORPORATION,
 a Delaware Corporation; and DOES 1-50
 15 inclusive,

16 Defendant(s).



No. '08 CV 1550 DMS-POR

[Removal from the Superior Court of the
 State of California, County of San Diego,
 Case No. 37-2008-00077669-CU-MC-
 CTL]

DEFENDANT FIA CARD
 SERVICES, N.A.'S NOTICE OF
 REMOVAL PURSUANT TO 28
 U.S.C. §§ 1331 AND 1441(b)

[FEDERAL QUESTION]

19 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
 20 SOUTHERN DISTRICT OF CALIFORNIA:

22 PLEASE TAKE NOTICE that Defendant FIA Card Services, N.A., ("FIA"),
 23 hereby removes this action from the Superior Court of the State of California, County
 24 of San Diego, pursuant to 28 U.S.C. §§ 1441(b) and 1331 (Federal Question). The
 25 removal of this action is based on the following:

- 27 1. On July 22, 2008, FIA received Plaintiff James Dresser's ("Plaintiff")

1 First Amended Complaint ("FAC"), asserting claims against FIA for violations of the
 2 federal Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.), the Unfair
 3 Business Practices Act (Bus. And Professions Code § 17200 et seq.), and California
 4 Civil Code section 1785.25(a). A true and correct copy of the FAC is attached hereto
 5 as Exhibit "A."

6
 7 2. Because this Notice of Removal is being filed within 30 days of July 22,
 8 2008, it is timely filed pursuant to 28 U.S.C. § 1446(b). Where the original complaint
 9 is not removable, defendant may remove within 30 days after receipt of an amended
 10 pleading from which it may first be ascertained that the case has become removable.
 11 *Id.* Where grounds for removal do not appear on the face of the initial pleadings,
 12 courts may look to "documents exchanged in the case by the parties to determine
 13 when the defendant had notice of the grounds for removal." *See Lovern v. General*
 14 *Motors Corp.*, 121 F. 3d 160, 161 (4th Cir. 1997).

15
 16 3. Exhibit "A" constitutes all pleadings, and documents served on FIA, as
 17 well as documents filed by FIA

18
 19 4. No previous request has been made for the relief requested herein.

20
 21 5. This action is a civil action over which this Court has original jurisdiction
 22 under 28 U.S.C. § 1331, and is one that may be removed to this Court by Capital One
 23 pursuant to the provisions of 28 U.S.C. § 1441(b) because it arises under the laws of
 24 the United States, particularly the federal Fair Debt Collection Practices Act, 15
 25 U.S.C. § 1681 et seq.

26
 27 6. The Superior Court of California for the County of San Diego is located
 28 within the Southern District of California. *See* 28 U.S.C. § 84(c)(3). Thus, venue is

1 proper in this Court because it is the "district and division embracing the place where
2 such action is pending." 28 U.S.C. § 1441(a).

3
4 7. FIA is the only defendant in this action.

5
6 8. Notice of this removal is being concurrently filed with both the state
7 court and the adverse party pursuant to 28 U.S.C. § 1446(d).

8
9 DATED: August 21, 2008.

10 REED SMITH LLP

11
12 By 

13 Abraham J. Colman
14 Felicia Y. Yu
15 Veronica Kuiumdjian
16 Attorneys for Defendants
17 FIA Card Services, N.A.
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REED SMITH LLP
A limited liability partnership formed in the State of Delaware

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is REED SMITH LLP, 355 South Grand Avenue, Suite 2900, Los Angeles, CA 90071-1514. On August 21, 2008, I served the following document(s) by the method indicated below:

DEFENDANT FIA CARD SERVICES N.A.'S NOTICE TO THE CLERK OF THE SUPERIOR COURT OF SAN DIEGO COUNTY AND TO ADVERSE PARTY OF REMOVAL PURSUANT TO 28 U.S.C. §§ 1331 AND 1441(B)

- ☐ by transmitting via facsimile on this date from fax number +1 213 457 8080 the document(s) listed above to the fax number(s) set forth below. The transmission was completed before 5:00 PM and was reported complete and without error. The transmission report, which is attached to this proof of service, was properly issued by the transmitting fax machine. Service by fax was made by agreement of the parties, confirmed in writing. The transmitting fax machine complies with Cal.R.Ct 2003(3).
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.
- ☐ by placing the document(s) listed above in a sealed envelope(s) and by causing personal delivery of the envelope(s) to the person(s) at the address(es) set forth below. A signed proof of service by the process server or delivery service will be filed shortly.
- ☐ by placing the document(s) listed above in a sealed envelope(s) and consigning it to an express mail service for guaranteed delivery on the next business day following the date of consignment to the address(es) set forth below. A copy of the consignment slip is attached to this proof of service.
- ☐ by transmitting via email to the parties at the email addresses listed below:

James Dresser 14972 Lyons Valley Road Jamul, CA 91935	Plaintiff, In Propria Persona
---	-------------------------------

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 21, 2008, at Los Angeles, California.


Davina M. Bernal